

UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

RICHARD WEST and JOSEPH BRUYETE,  
individual and on behalf of a class of similarly  
situated persons;

Plaintiffs,

v.

MICHAEL SMITH, in his official capacity  
only, as Vermont Secretary of Human  
Services; JANE DOE, Vermont Deputy  
Secretary of Human Services; JAMES  
BAKER, Vermont Department of Corrections  
Interim Commissioner; JOHN DOE, Vermont  
Department of Corrections Health Services  
Director, in their official capacities; and  
VITALCORE HEALTH STRATEGIES, LLC,

Defendants.

Case No. 2:19-cv-00181-WKS

**DECLARATION OF KEVIN COSTELLO IN SUPPORT OF THE PARTIES' JOINT  
MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT AGREEMENT AND  
APPROVAL OF CLASS NOTICE**

I, Kevin Costello, declare under penalty of perjury and in accordance with the laws of the United States and of Vermont that:

1. I am one of the attorneys for the Plaintiffs in this matter and have been appointed class counsel to represent the class. ECF No. 56. I have personal knowledge of the facts stated herein.
2. On June 17, 2019, the Court issued an Order approving of my admission *pro hac vice* in this matter. ECF No. 18. The Court has also issued an Order granting the Plaintiffs'

motion to certify the class and appoint me and my cocounsel as Class Counsel in this matter. ECF No. 56.

3. This action has now been ongoing for more than two years and, in addition to the Plaintiffs' pre-litigation investigation, has included a fully briefed class certification motion and months of informal settlement negotiations between the Parties. As for discovery, to date, the Parties in this matter have exchanged thousands of pages of documents, proffered interrogatories and received first responses, and conducted two depositions pursuant to Fed. R. Civ. P. 30(b)(6).
4. Since filing the initial complaint on May 21, 2019, the Parties have expended hundreds of attorney and staff hours, engaged in motion practice, and scheduled, served, and began the process of discovery. Upon commencing settlement negotiations in January 2021, the Parties worked through difficult disagreements, and it is my belief that each side dedicated extensive resources to advance their clients' positions. At each step, the Parties preserved their right to continue litigation should they prove unable to reach an agreement.
5. Attached to this Declaration as Exhibit 1 is a true and correct copy of the Settlement Agreement reached between the Defendants and the Class Representatives in this matter.
6. Attached to this Declaration as Exhibit 2 is a true and correct copy of a document produced by the Defendants in this matter entitled "Hepatitis C Virus Treatment Program," and bearing the date January 1, 2021.
7. Attached to this Declaration as Exhibit 3 is a proposed form of class notice to be sent to class members following preliminary approval of this settlement. Please note that this

draft contains certain placeholders for contact and date information that will be completed in advance of sending.

DATED: June 11, 2021, at Medford, Massachusetts.



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Kevin Costello  
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*Attorney for Plaintiffs*

#### **CERTIFICATE OF SERVICE & CONFERENCE**

I hereby certify that the Parties have conferred in advance of filing this motion. I also hereby certify that on June 11, 2021, I electronically filed with the Clerk of Court the foregoing document using the CM/ECF system. The CM/ECF system will provide service of such filing via Notice of Electronic Filing (NEF) to all counsel of record.

s/ Kevin Costello  
Kevin Costello  
(admitted pro hac vice)  
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Dated: June 11, 2021